



## COLONIAL LAW



# COLONIAL LAW

A BIBLIOGRAPHY  
WITH SPECIAL REFERENCE TO  
NATIVE AFRICAN SYSTEMS OF  
LAW AND LAND TENURE

*By*

C. K. MEEK

*Fellow of Brasenose College  
Oxford*

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## EDITOR'S PREFACE

THIS is the fifth of a series of bibliographies and reading lists which have been produced with the help of money provided by Nuffield College. Their original purpose was to provide working lists for the use of members of the Colonial Services, but when a student of the status of Dr. Meek agreed to undertake this list it naturally and most advantageously developed into a bibliography. Even so, the detailed arrangement of the titles should allow the practical and hard-worked colonial administrator to find the material that may serve his needs.

The great importance of the subject covered in this bibliography will be clear to all who have any knowledge of colonial affairs. The relationship between Britain and the colonial peoples in the field of law has produced very deep effects, but it has also given rise to problems and ambiguities which urgently need study. It is strange that a people so proud of their achievement in the sphere of law as the British should have given so little serious attention to the wider significance of this side of their imperial responsibilities. Dr. Meek can, unfortunately, list few books that deal directly with the problem, though there are many which provide the anthropological data upon indigenous systems. It may be hoped that his bibliography will serve as an invitation to comparative and analytic study of the subject.

The other lists in the series are as follows:

1. *Colonial Administration*. (1s. 9d., 2s. post free. This is a very brief and general list.)
2. *Colonial Economics*. By Miss Penelope Bower. (1s. 6d., 1s. 3d. post free.)
3. *Urban Conditions in Africa*. By Monsieur Jean Comhaire. (2s. 6d., 2s. 3d. post free.)
4. *Rural Conditions and Betterment in the British Colonies*. By Dr. Philip Mayer. (Published by the Oxford University Press. 4s. 6d.)

Application for the first three reading lists should be made to the Institute of Colonial Studies, 10 Bardwell Road, Oxford.

The task of checking these lists and seeing them through the press has been carried out in the Institute of Colonial Studies where it has been entrusted to Mr. J. A. Hutton.

August 1947

MARGERY PERHAM



## PREFACE

THIS bibliography has been prepared for the use of members of the Colonial Service and of any others who may be interested in the law of the British colonial territories and its administration. It is particularly concerned with the indigenous systems of law and custom in Africa, and since these are developing rapidly under new social and economic conditions a good deal of material has been included on legal theory and history, sociological jurisprudence, and the development of the legal systems of India and Ceylon under British rule. Extensive use has also been made of South African data, a full bibliography of which was published under the editorship of Professor Schapera by the Oxford University Press in 1941,<sup>1</sup> and a shorter bibliography in *Bantu Studies* by Mr. Julius Lewin.<sup>2</sup>

Originally it was intended that the bibliography should be a brief one; but as some students are likely to be more interested than others in particular branches of the subject, or in particular territories, it seemed advisable to present a fairly comprehensive list, indicating the more important works by an asterisk, and the most important by a double asterisk.

I must express my gratitude to Dr. S. Vesey-Fitzgerald, Professor Raymond Firth, Dr. Audrey Richards, Dr. J. S. Furnivall, and Dr. Felhoen Kraal for a number of valuable suggestions; also to Mr. J. A. Hutton for undertaking the tedious task of seeing the bibliography through the press.

It will be observed that the arrangement of the headings has not followed a uniform principle, being sometimes functional and sometimes territorial. This arrangement, if illogical, seemed to be the most convenient.

<sup>1</sup> *Select Bibliography of South African Native Life Problems*, compiled for the Inter-University Committee for African Studies under the direction of I. Schapera, London, 1941.

<sup>2</sup> *A Short Survey of Native Law in South Africa*, by Julius Lewin. Reprinted from *Bantu Studies*, June 1941, Johannesburg (The Witwatersrand University Press)





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## INTRODUCTORY NOTES

### A. *Notes on Periodicals:*

*Africa* (1928- ) is published quarterly by the Oxford University Press for the International African Institute.

*African Studies*, formerly *Bantu Studies*, is published quarterly from the Department of Bantu Studies of the University of Witwatersrand, Johannesburg. The English agents are Kegan Paul, Trench, Trubner & Co. Ltd., 38 Great Russell Street, London, W.C. 1.

*Bantu Studies*, see *African Studies*.

*Man* is the monthly magazine of the Royal Anthropological Institute.

*Nada* (1923- ) is published annually by the Native Affairs Department of the Southern Rhodesian Government.

*The Journal of Comparative Legislation and International Law* is published serially in London for the Society of Comparative Legislation. It includes an annual review of the most important colonial legislation. The Society of Comparative Legislation has done much to extend the knowledge of native law, and its work is not confined in its interest to lawyers and legislators, but provides material for students of social conditions and of every aspect of the life of the community.

*The Journal of the Royal African Society*, now *African Affairs*, is published quarterly by Macmillan & Co., London.

*The Journal of the Royal Anthropological Institute* is published twice yearly by the R.A. Institute, 20 Bedford Square, London, W.C. 1.

*The Law Quarterly* is published quarterly in London.

*The Modern Law Review* is published quarterly in London.

*Race Relations*. A quarterly journal published by the South African Institute of Race Relations, P.O. Box 97, Johannesburg.

*The Rhodes-Livingstone Institute Journal* is published twice yearly at Livingstone, N. Rhodesia (English agents B. H. Blackwell, Oxford). The *Rhodes-Livingstone Papers* frequently deal with aspects of native law in Africa.

B. *Official Handbooks*. The official handbooks of the various colonial governments usually contain a chapter on the local judicial system. Thus in the *Uganda Handbook* (by H. B. Thomas and R. Scott) there is a chapter entitled 'Justice' with sections on (a) The History of the Courts, (b) The Law in force in Uganda, (c) The Institution of British Courts, (d) The High Court, (e) Special District Courts, (f) District Courts, (g) Appeals,

## INTRODUCTORY NOTES

(h) Legal Practitioners, (i) Native Courts, (j) Native Law, (k) Muhammadan Law, and (l) Prisons.

C. *The Dominions and Colonial Office List* contains much information on the history, political and administrative structure, and legal systems of the various dependencies.

D. The *Annual Reports* on the Social and Economic Progress of the Peoples of the various territories include a chapter describing the judicial organization of the colony. These reports also include a chapter describing the more important ordinances enacted during the year. In addition, separate reports are issued annually by the Judicial and Legal Departments of the local governments, and by the Police and Prison Departments.

E. The *Statutes* of the various colonies are available in printed volumes, which are periodically revised so as to embody all later amendments and additions.<sup>1</sup> Subordinate legislation is sometimes compiled annually and issued in supplementary volumes. Where this is not done the Statutory Rules and Orders made under the various ordinances will be found in the local government gazettes. The increasing output of subordinate or administrative legislation has in most colonial territories caused large arrears in the work of consolidation. On the other hand, large sections of the law have been codified, and in most colonial territories there are Codes of Criminal Law and Procedure, Evidence, and Civil Procedure. Native law and custom have seldom been reduced to the form of written statutes.

F. *Law Reports*. Most of the colonies publish reports of the more important cases tried each year in the Superior Courts of their territory.<sup>2</sup> The decisions of the East and West African Courts of Appeal are also recorded in printed volumes. The decisions of the Judicial Committee of the Privy Council are published annually and provide the most authoritative source for the study of colonial law. For digests of Native Appeal Court Cases in the Transkeian Territories of South Africa, the Cape and Orange Free State Divisions, Natal, Transvaal, and Southern Rhodesia, the reader should consult the *Short Survey of Native Law in South Africa*, by Julius Lewin, pp. 80-2 (reprinted from *Bantu Studies*, June 1941).

<sup>1</sup> See, for example, (a) *The Laws of Jamaica in force on Aug. 1, 1938*. Rev. ed. prepared by Sir H. I. C. Brown, 7 vols., Kingston, 1938; or (b) *The Laws of the Gold Coast* (including Togoland under British Mandate), prepared by L. E. V. M'Carthy, rev. ed., 4 vols., Accra, 1937. Supplements, Accra, 1938, 1939.

<sup>2</sup> See, for example, *Gold Coast Law Reports Selected Judgements of the Divisional Courts of the Gold Coast, 1 April 1931 to 31 December 1937*, Accra, 1939.

## LIST OF ABBREVIATED REFERENCES

|                                   |  |
|-----------------------------------|--|
| <i>Afr. Obs.</i>                  | African Observer                                       |
| <i>Enc. Brit.</i>                 | Encyclopedia Britannica, 14th ed.                      |
| <i>Enc. Soc. Sci.</i>             | Encyclopedia of the Social Sciences                    |
| <i>Geog. Journ.</i>               | Geographical Journal                                   |
| <i>Inst. Col. Int.</i>            | Institut Colonial International                        |
| <i>Int. Lab. Rev.</i>             | International Labour Review                            |
| <i>J. Comp. Leg.</i>              | Journal of Comparative Legislation                     |
| <i>J. E. Afr. Nat. Hist. Soc.</i> | Journal of the East African Natural<br>History Society |
| <i>J. Pol. Soc.</i>               | Journal of the Polynesian Society                      |
| <i>J. (R.) Afr. Soc.</i>          | Journal of the (Royal) African Society                 |
| <i>J. R. Anthropol. Inst.</i>     | Journal of the Royal Anthropological<br>Institute      |
| <i>L. Q. R.</i>                   | Law Quarterly Review                                   |
| <i>Leg. Co P.</i>                 | Legislative Council Paper                              |
| <i>S. P.</i>                      | Sessional Paper  |
| <i>S. Afr. J. Sci.</i>            | South African Journal of Science                       |
| <i>S. Afr. Law J.</i>             | South African Law Journal                              |
| <i>Trop. Ag.</i>                  | Tropical Agriculture                                   |
| <i>Ug. J.</i>                     | Uganda Journal   |



## I. GENERAL

1. APPASAMY, Paul. Law Applicable to Christians. *Madras, &c.*, 1928. 311 pp.  
Deals with the personal law applicable to Christians in India. A useful handbook for the study of similar problems in the colonies.
2. BARKER, Sir E. Ideas and Ideals of the British Empire. *Cambridge*, 1941. viii+167 pp.
3. BEAUCHAMP, J. J. The Jurisprudence of the Privy Council. *Montreal*, 1891. xiv+920 pp.  
Appendix A has some useful remarks on British colonies and the nature of their civil law.
4. BENTWICH, N. de M. The Practice of the Privy Council in Judicial Matters. 3rd ed. *London*, 1937. 353 pp.
- \*\* 5. BERTRAM, A. The Colonial Service. *Cambridge*, 1930. xii+291 pp.  
Chapter V deals with the organization of Law and Justice in the Colonial Empire, Chapter VI with the Courts, and Chapter VII with the Legislature.
6. BOYES, G. N. W. The Law in St. Lucia. *Law Journal*, 76, p. 172. 1933.
7. BRADDELL, R. St. J. The Law of the Straits Settlements. *Singapore*, 1915. xi+278 pp.  
Out of date, but still useful. Chapter I deals with the legal history of the Straits Settlements, and Chapter II with modifications of English law.
8. BRITISH GUIANA. Report of Committee appointed to consider what English statutes should be adopted in the Colony to enable the law to be altered from Roman-Dutch to English, 1916. (Nunan, J. J., Ch.) *Georgetown*, 1916. 132 pp.
9. BROWNE, G. St. J. Orde. British Justice and the African. *J. R. Afr. Soc.* 32, pp. 148-59, 280-93. 1933.
- \*\*10. BRYCE, James. Studies in History and Jurisprudence. *Oxford*, 1901. 2 vols. xxii+553: xvi+543 pp.  
Note especially Vol. I, Chap. II, 'The Extension of Roman and English law throughout the World', pp. 85-144
- \*\*11. BUELL, R. L. The Native Problem in Africa. *New York*, 1928, 2 vols. 1045: 1101 pp.  
See especially the various sections dealing with the judicial systems. Also Vol. I, pp. 175-8 (for criticism of the Basuto Courts and an account of the laws of Leretholi) and Vol. I, Chap. 61, pp. 1002-20 (for the administration of justice in French West Africa).
12. BURGE, W. Commentaries on Colonial and Foreign Laws. New ed. by Sir A. Wood Renton and Sir J. Phillimore. 4 vols. 1907-14. Vol. IV, Part 2, 1928.
13. BURNS, A. C. History of Nigeria. 3rd ed. *London*, 1942. 360 pp.  
Chapter XXII deals with the judicial system of Nigeria.



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14. BUSHE, H. Grattan. Criminal Justice in East Africa. *J. R. Afr. Soc.* 34, pp. 117-28. 1935.
15. CAPE OF GOOD HOPE. Proceedings and Evidence taken by the Commission on Native Affairs. *Grahamstown*, 1865. xxvii+177+213+86 pp.  
     The minutes provide valuable information on the treatment of native customary law.
16. CEYLON. Report of the Sub-Committee on Commercial Legislation. *S. P. No. X* of 1939. *Colombo*, 1939. 15 pp.
17. CHARLES, Pierre. Le problème des centres extra-coutumiers et quelques-uns de ses aspects. *Inst. Col. Int., Compte Rendu de la XXIII<sup>me</sup> Session tenue à Londres*, 1936. *Brussels*, 1937. Annexe II, pp. 27-180. English summary, Annexe VII, pp. 335-68.
18. CLARK, Charles. A Summary of Colonial Law, the Practice of the Court of Appeals from the Plantations and of the Laws and their Administration in all the Colonies; with Charters of Justice, Orders in Council, &c. *London*, 1834. 746 pp.
- \* 19. COLONIAL OFFICE. The Colonial Legal Service. Colonial Service Recruitment Memorandum No. 6. 5th ed. *London*, 1938. 58 pp.
20. CYPRUS. The Mukhtar's Handbook. *Nicosia*, 1929. 52 pp.
21. DARESTE, P. Traité de droit colonial. *Paris*, 1931-2. 2 vols. xxiii+709: xxiii+880 pp.
22. DE HART, J. The Judicial System of the Sierra Leone Protectorate. *Freetown*, 1926. 24 pp.
- \*\* 23. DE KAT ANGELINO, A. D. A. Colonial Policy. Abridged tr. by G. J. Renier, in collaboration with the author. *The Hague*, 1931. 2 vols. 530: 674 pp.  
     See especially Vol. I, pp. 72-7, 115-65, and Vol. II, pp. 130-93 (The Administration of Justice).
24. DE KIEWIET, C. W. Social and Economic Developments in Native Tribal Life. In 'The Cambridge History of the British Empire'. *Cambridge*, 1936. Vol. VIII, 'South Africa': Chap. XXX, pp. 808-28.  
     Especially pp. 824-8, which deal with Native versus European law and the decay of tribal controls.
25. DOORLY, A. N., British Magistrates in East and West Africa. *J. Comp. Leg.* 3rd Series, 27, Pts. III and IV, pp. 87-92. 1945.
26. EAST AFRICA. Technical Conferences of the East African Dependencies. Report by the Conference of Law Officers, 1926. *Nairobi*, 1926. 43 pp.
27. EAST AFRICA. Report of the Commission of Inquiry into the Administration of Justice in Kenya, Uganda and the Tanganyika Territory in Criminal Matters, May, 1933, and Correspondence arising out of the Report. Cmd. 4623. *London*, 1934. 160 pp. Minutes of Evidence and Memoranda. Col. No. 96. *London*, 1934. 221 pp.

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28. EAST AFRICA. Report of Conference of Law Officers of East African Dependencies. (Bruce, T. D. H., Ch.) *Nairobi*, 1933. 71 pp.
29. EDWARDS, David. Examples of Empire Law. *Privately printed*, 1927. 48 pp.
30. EGERTON, H. E. A Short History of British Colonial Policy. 1606-1909. 9th ed. rev. by A. P. Newton. *London*, 1932. xiii+516 pp.
31. FIDDES, Sir G. The Dominions and Colonial Offices. *London and New York*, 1926. 288 pp.
32. FIJI. Divorce and Matrimonial Jurisdiction. *Fiji Leg. Co. P.* No. 29 of 1933. 2 pp.
33. FURNIVALL, J. S. Netherlands India. *Cambridge*, 1939. 502 pp.
34. GIRAULT, A. Principes de Colonisation et de Législation Coloniale. 5th ed. *Paris*, 1926-30. 5 vols. Vol. IV, L'Algérie, 7th ed. rev. by L. Milliot. *Paris*, 1938. xi+494 pp. Vol. V, La Tunisie et le Maroc, 6th ed. rev. by L. Milliot. *Paris*, 1936. xi+637 pp.
35. GRIFFITH, W. B. A Digest of and Index to the reports of Cases decided in the Supreme Court of the Gold Coast Colony. *Accra*, 1935. xxvi+194 pp.
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39. HAVERS, C. R. Report of Commission of Inquiry into Expenses incurred by Litigants in the Courts of the Gold Coast and Indebtedness caused thereby. *Accra*, 1945. 47 pp.
40. HAYMAN, J. D. Legal Aid for the Poor in South Africa. *J. Comp. Leg.* 3rd Series. 26, Pts. III and IV, pp. 12-16. 1944.
- \*41. HONE, H. R. The Native of Uganda and The Criminal Law. *Ug. J.* 6, pp. 1-16. *Kampala*, July 1938. Also *J. Comp. Leg.* 3rd Series. 21, Pt. I, pp. 179-97. 1939.
42. HOOPER, C. A. The Commercial Law of Iraq and Palestine. *Baghdad*, 1929. 277 pp.  

Iraqi commercial law is based on French law. This book has been included as it might be of use in Muhammadan territories such as Northern Nigeria where commercial law is now being rapidly developed.
43. HOOPER, C. A. The Civil Law of Palestine and Trans-Jordan. Vol. I, Mejelle. *Jerusalem*, 1933. Reprinted *London*, 1934. xi+511 pp.

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45. HOWARD, J. H. The Laws of the British Colonies in the West Indies and other parts of America concerning Real and Personal Property and Manumission of Slaves, with a view of the Constitution of each colony. *London*, 1827. 2 vols. xvi+598: 386 pp.
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     Chapter IV (The Application of English Law to Natives of India) and Chapter V (British Jurisdiction in Native States) are of particular importance.
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     See especially Chapter IX (Indian and Colonial Legislation).
48. KENYA. Report of Select Committee of Legislative Council appointed to consider and report on the provisions of a Bill to make provisions for the procedure to be followed in Criminal Cases. *Nairobi*, 1930. 10 pp.  
     Not of much interest.
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     Useful as a background for the study of colonial and primitive law.
51. LIEBESNEY, H. J. The Government of French North Africa. *African Handbooks* No. 1. *University of Pennsylvania Press*, 1943. 130 pp.  
     Pp 105-24 contain a useful review of the legal systems in the French African dependencies, as well as a guide to the legal sources. See also pp 39-51, 66-74, and 93-104.
52. LINDSAY, Benjamin. Law. In 'Modern India and the West', ed. by L. S. S. O'Malley. *London, &c.*, 1941. pp. 107-37.
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54. MALVEZZI, Count A. The Evolution of Colonial Law. An Italian View. *United Empire*, 19, pp. 582-7. 1928.  
     A translation of a portion of the second part of Chapter IV of the entry below.
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60. MINTY, L. le M. *Foreign Law in the British Empire*. French Law in the British Empire. *The Round Table*, 23, pp. 362-82. 1933.
61. NAPIER, Sir W. *An Introduction to the Study of the Law administered in the Colony of the Straits Settlements*. Singapore, 1898. x+52 pp.
62. NATAL. Report of the Native Suitors' Commission, Colony of Natal, 1903. 33 pp. Published as Government Notice No. 193 of 1903.  
     'Valuable, especially the minority report by S. O. Samuelson, for the light it throws on native attitudes to lawyers and to litigation and its costs, and on the origin and object of the Natal Code' (Lewin).
63. PEREIRA, J. C. W. *The Laws of Ceylon*. 2nd ed. Colombo, 1913. 850 pp.  
     An important work for the study of colonial jurisprudence and the interrelation of different systems of law.
64. PERHAM, M. *Native Administration in Nigeria*. London, &c., 1937. 404 pp.  
     See particularly Chapters V, VI, VII, IX, XVI, and XX.
65. PRETORIA JOINT COUNCIL OF NATIVES AND EUROPEANS. Memorandum on the Administration of Justice in Africa, with Special Reference to the Native Population. Pretoria, 1928. 18 pp.
66. RANKIN, Sir G. C. *The Background of Indian Law*. London, 1946. 223 pp.
67. RATTIGAN, W. H. *A Digest of Civil Law for the Punjab, chiefly based on the Customary Law as at present ascertained*. 7th ed. revised up to June, 1909, by H. A. B. Rattigan. London and Lahore, 1909. xlvii+384 pp.
68. REDWAR, H. W. Hayes. *Comments on Some Ordinances of the Gold Coast Colony, with Notes on a few Decided Cases*. London, 1909. 296 pp.  
     An extremely useful book for the study of the interaction of English and Native Law in the Gold Coast.
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70. RENTON, Sir A. Wood. *Le Droit français dans l'Empire Britannique*. Communication faite à la séance solennelle de l'Académie Internationale de Droit Comparé au Palais de la Paix à la Haye, le 7 août, 1931. Paris, 1932. 25 pp.  
     A pamphlet dealing with the use of French law in the Channel Islands, Quebec, St. Lucia, Mauritius, and the Seychelles
71. ROBERTS, C. C. *The African Native under the English System of Penal Law*. *J. Comp. Leg.*, 3rd Series, 15, Pt. I, pp. 169-75. 1933.

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72. ROBERTS, C. C. Tangled Justice. Some Reasons for a Change of Policy in Africa. *London*, 1937. 153 pp.
73. ROGERS, H. Native Administration in the Union of South Africa. An official publication. *Johannesburg*, 1933. (Special number of *Bantu Studies*.) xvi+371 pp.
74. RUSSELL, Sir Alison. Legislative Drafting and Forms. 3rd ed. *London*, 1931. 504 pp.  
This work is intended for practitioners and officials concerned in the initiation and drafting of legislation, but contains also some very useful general observations relating to Colonial Law
75. RUSSELL, Sir Alison. The Magistrate. *London*, 1945. 162 pp.  
A practical handbook, by a former Chief Justice of Tanganyika Territory, for the use of Magistrates and Justices of the Peace in Crown Colonies and Protectorates.
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This description of Anglo-Saxon law provides numerous parallels with the law of African tribes to-day.
- \*\*282. RADCLIFFE-BROWN, A. R. Article 'Law, Primitive'. *Enc. Soc. Sci.* 9, pp. 202-6. 1933.
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Pp. 95-134 deal with the organization of law and custom.
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- 288. SEIDL, E. Article 'Law, Egyptian'. *Enc. Soc. Sci.* 9, pp. 209-11. 1933.
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- \*295. WESTERMARCK, E. *The Origin and Development of the Moral Ideas*. London, 1906-8. 2 vols. xxi+716: xv+852 pp.
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Mr. Srinivasa Tyengar has very well performed the difficult task of bringing this great legal classic up to date.
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303. VESEY-FITZGERALD, S. Article 'Jimutavahana'. *Enc. Soc. Sci.* 8, pp. 403-4. 1932
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This includes a bibliography for Hindu Law.
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## 8. MUHAMMADAN LAW

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306. ALI, Ameer. *Mahommedan Law*. 4th ed. *Bombay*, 1912-17. 2 vols. xxxi+818: xxx+640 *pp*. Vol. II. 5th ed. 1930.
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309. Article 'Muhammadan Law'. *Chambers's Encyclopedia*. Forthcoming edition.
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Has a short elementary chapter on Muhammadan jurisprudence, and also a useful bibliography
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Vol. I, Chap. II, deals with the status of women in Islam, Chap. III with the status of the child, and Chap. IV with Islamic jurisprudence.

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The most popular elementary book on Maliki law.
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## 9. NATIVE LAW AND PROCEDURE

### (A) AFRICA

#### (1) General

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A study of native law in East Africa based on questionnaires sent out to missionaries and others in former German colonies
- \*333. BROWN, G. C., and HUTT, A. McD. *Anthropology in Action*. London, 1935. xviii+272 pp.  
See especially pp. 115-34 (the public regulation of family life, law, land tenure), 175-84 (magic and witchcraft), 205-9 (European law), and 255 (native rules of evidence).
334. BROWNE, G. St. J. Orde. *British Justice and the African*. *J. R. Afr. Soc.* 32, pp. 148-59 and 280-93. 1933.
335. BUTT-THOMPSON, F. W. *West African Secret Societies*. London, 1929. 320 pp.
336. CULWICK, A. T. *Good out of Africa. A Study in the Relativity of Morals*. Rhodes-Livingstone Paper No. 8. *Livingstone*, 1942. 44 pp.
- \*337. DRIBERG, J. H. *Primitive Law in Eastern Africa*. *Africa*, 1, pp. 63-72. 1928.
- \*338. DRIBERG, J. H. *At Home with the Savage*. London, 1932. pp. 214-31 ('Law').
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343. FORTES, M., and EVANS-PRITCHARD, E. E. (editors). *African Political Systems*. London, 1940. pp. 32-3, 38, 63-4, 67-9, 72, 105, 108, 113, 116-18, 181-2, 202-23, 293.
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An able article on the changing background of native law and custom.
- \*\*345. HAILEY, Lord. *An African Survey*. London, 1938. See Index—Law (Native customary).
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348. KINGSLEY, Mary. *West African Studies* 2nd ed. *London*, 1901. 507 pp.  
Especially Chapter XX, 'African Religion and Law'.
349. KNAK, D. S. *Einflüsse der europäischen Zivilisation auf das Familienleben der Bantu*. *Africa*, 4, pp. 178-201. 1931.
- \*350. LEWIN, Julius. *Studies in African Native Law*. *Cape Town*, 1947. 174 pp.
351. MAIR, L. P. *Native Policies in Africa*. *London*, 1936. xi+318 pp.
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354. THURNWALD, R. C. *The Missionary's Concern in Sociology and Psychology*. *Africa*, 4, pp. 430-1. 1931.  
Deals with method in the study of native law
355. THURNWALD, R. C. *Economics in Primitive Communities*. *London*, 1932. 314 pp.  
Provides a useful background for the study of native law. Especially relevant are pp. 186-94 (ownership and property), 171-4 (purchase), 195-204 (feudalism), 217-42 (slavery), and 242-51 (bondmen)
- \*356. THURNWALD, R. C. *Black and White in East Africa (with a chapter on Women by H. Thurnwald)*. *London*, 1935. xxii+419 pp.  
See esp. pp. 30-3 (Tribe, Clan, Family, Leadership), 84-92 (Justice and Criminality), 111-15 (Property and Inheritance), 160-3 (Divorce), 287-309 (Changes in the African Mind)
357. TORDAY, E. *African Races*. *London*, 1930. iv+385 pp.
358. TUPPER, Sir L. *Customary and Other Law in the East Africa Protectorate*. *J. Comp. Leg.* New Series, 8, pp. 172-84. 1907.
- \*359. WILSON, Godfrey. *An African Morality*. *Africa*, 9, pp. 75-98. 1936.
- \*360. WILSON, Godfrey and Monica. *The Analysis of Social Change*. *Cambridge*, 1944. 177 pp.

### (2) *Native Courts*

The constitution of the Native Courts, their jurisdiction, powers, procedure, and the law they are required to administer, are set forth in the Native Courts Ordinances of each territory. The working of the system is described in the official handbooks and annual reports of the local governments. Further information will be found in some of the publications listed under Native Law. The following are a few of special interest:

361. BLAINE, C. H., and MANNING, C. N. *Native Courts Practice*. *Cape Town*, 1931. 234 pp.
362. BRADLEY, Kenneth. *Native Courts and Authorities in Northern Rhodesia*. *Ndola*, 1942. 41 pp.

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364. CAMERON, Sir D. The Principles of Native Administration and their Application (Tanganyika Territory, Native Administration Memoranda No. I). 2nd ed. *Dar es Salaam*, 1930. 46 *pp.*
365. CAMERON, Sir D. Native Courts. (Tanganyika Territory, Native Administration Memoranda No. II.) 2nd ed. *Dar es Salaam*, 1930. iii+44 *pp.*
366. CAMERON, Sir D. The Principles of Native Administration and Their Application. Nigeria. *Lagos*. 1934. 47 *pp.*
367. FLYNN, J. L. W. Evidence of Customs, Etc. *Nada*, 15, *pp.* 88-97. 1938.  
Provides useful notes on the practice of the Southern Rhodesia Native Appeal Court
368. GRIFFITH, W. B. Native Courts of the Gold Coast. *J. Comp. Leg.* New Series, 6, *pp.* 507-13. 1905.
369. GRIFFITH, W. B. A Note on the History of the British Courts in the Gold Coast Colony, with a brief account of the Changes in the Constitution of the Colony. *Accra*, 1936. 34 *pp.*
- \*370. HAILEY, Lord. An African Survey. *London*, 1938. Chap. VII, *pp.* 261-316.
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373. HAYFORD, Caseley. Gold Coast Native Institutions *London*, 1903. *pp.* 93-4.
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- \*377. PHILLIPS, Arthur. Report on Native Tribunals (Kenya). *Nairobi*, 1945. 360 *pp.*
- \*378. ROGERS, H. Native Administration in the Union of S. Africa. *Johannesburg*, 1933. *pp.* 219-52.
- \*379. SCHAPER, I. The Work of Tribal Courts in the Bechuanaland Protectorate. *African Studies*, 2, *pp.* 27-40. 1943.
- \*380. UGANDA. Handbook on Native Courts, for the Guidance of Administrative Officers. *Entebbe*, 1941. 57 *pp.*  
Contains much useful guidance for Administrative and Judicial Officers in African Dependencies.

## NATIVE LAW AND PROCEDURE

### (3) *Marriage and the Status of Women*

The following papers and books deal specifically with this subject. But most of the ethnographical works cited under the heading Native Law contain chapters dealing with marriage and the legal position of women:

381. BECKETT, W. E. The Recognition of Polygamous Marriages under English Law. *L. Q. R.* **48**, pp. 341-73. 1932.
382. BRITTEN, H. 'Twala. The Recognition of Native Customary Unions.' *Bantu Studies*, **4**, pp. 269-77. 1930.  
A discussion of the laws dealing with native marriages and particularly of the custom of abduction in the light of European law.
383. CROSBY, K. H. Polygamy in Mende Country. *Africa*, **10**, pp. 249-64. 1937.  
Written from a missionary rather than a sociological standpoint.
384. CULWICK, A. T. and G. M. The Functions of Bride-Wealth in Ubeni of the Rivers. *Africa*, **7**, pp. 140-59. 1934.
385. DEVAUX, V. Le Mariage en Droit coutumier congolais. *Bulletin des Juridictions indigènes et du Droit coutumier congolais*, **14**, pp. 189-200. 1946.
386. DRIBERG, J. H. The Status of Women among the Nilotics and Nilo-Hamitics. *Africa*, **5**, pp. 404-21, 1932.
387. EAST, R. M. Akiga's Story: The Tiv Tribe as seen by one of its members. Translated and annotated by Rupert East. *London*, 1939. 436 pp.  
Chapter III deals with marriage. Also pp. 309-19.
- \*388. EVANS-PRITCHARD, E. E. Some Aspects of Marriage and the Family among the Nuer. Rhodes-Livingstone Paper No. 11. *Livingstone*, 1945. 70 pp.
389. EVANS-PRITCHARD, E. E. Nuer Bride-wealth. *Africa*, **16**, pp. 247-57. 1946.
390. FORDE, DARYLL. Marriage and the Family among the Yakö in South Eastern Nigeria. *London*, 1941. 121 pp.
391. FORTES, M. Marriage Law among the Tallensi. *Accra*, 1937. 23 pp.
392. FORTES, M. Kinship, Incest and Exogamy of the Northern Territories of the Gold Coast. In 'Custom is King' (Essays presented to R. R. Marett). *London*, 1936, pp. 239-56.
393. GLUCKMAN, Max. A Comparative Study of the Instability of Lozi Marriages. Rhodes-Livingstone Paper. *Livingstone*. Forthcoming shortly.
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396. JENNINGS, A. E. Bogadi: A Study of the Marriage Laws and Customs of the Bechuana Tribes of South Africa. *Vryburg, S. Africa*, 1933. 62 pp.
397. LABOURET, H. Situation matérielle, morale et coutumière de la femme dans l'Ouest-Africain. *Africa*, 13, pp. 97-124. 1940.
398. LEITH-ROSS, S. African Women. A Study of the Ibo of Nigeria. *London*, 1939. 365 pp.
399. LESTRADE, G. P. The *Mala* System of the Venda-Speaking Tribes. *Bantu Studies*, 4, pp. 193-204. 1930.  
A good account of the Venda law of marriage.
400. LEWIN, Julius. Some Legal Consequences of Marriage by Native Christians in British Africa. *Modern Law Review*, 3, pp. 48-52. 1939.
401. LEWIN, Julius. Some Legal Aspects of Marriage by Natives in South Africa. *Bantu Studies*, 15, pp. 13-23. 1941.
402. LEWIN, Julius. Some Lobolo Cases in Native Law. *African Studies*, 3, pp. 129-39. 1944.
403. LEWIN, Julius. Two Forms of Marriage. In 'Studies in African Native Law'. *Cape Town*, 1947. pp. 32-48.
404. MAIR, L. P. Native Marriage in Buganda. Published by the O.U.P. for the International Institute of African Languages and Cultures. *London*, 1940. 33 pp.
405. MEEK, C. K. Marriage by Exchange in Nigeria. *Africa*, 9, pp. 64-74. 1936.
406. NATIVE CUSTOMS IN NYASALAND. No. 2. Marriage, Divorce, &c. *Zomba*, 1937. 11 pp.
- \*\*407. PHILLIPS, Arthur. Report on Native Tribunals (Kenya). *Nairobi*, 1945. pp. 291-306.
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409. POSSELT, F. W. T. Native Marriage. *Nada*, 6, pp. 67-73. 1928.  
A discussion of the defects in the European law relating to native marriages.
410. READ, Margaret. The Moral Code of the Ngoni and Their Former Military State. *Africa*, 11, pp. 1-24. 1938.
411. REDWAR, H. W. Hayes. Comments on some Ordinances of the Gold Coast Colony, with Notes on a few Decided Cases. *London*, 1909. pp. 30-42 and 67.
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413. SCHAPER, I. Pre-marital Pregnancy and Native Opinion. A Note on Social Change. *Africa*, 6, pp. 59-89. 1933.
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- \*415. SMITH, E. W., and DALE, A. M. The Ila-Speaking Peoples of Northern Rhodesia. *London*, 1920. Vol. II, pp. 35-75.
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- 417. THURNWALD, H. Changes in the Family Life and the Status of Women. In 'Black and White in East Africa' by R. C. Thurnwald. *London*, 1935. pp. 142-204.
- 418. TORDAY, E. The Principles of Bantu Marriage. *Africa*, 2, pp. 255-90. 1929.  
A useful summary, with some debatable conclusions
- \*419. WESTERMARCK, E. The History of Human Marriage. 5th ed. *London*, 1921. 3 vols

### (4) *Witchcraft*

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- 421. BROWNE, G. St. J. Orde. Witchcraft and British Colonial Law. *Africa*, 8, pp. 481-7. 1935.
- \*422. EAST, R. M. Akiga's Story. The Tiv Tribe as seen by one of its members. Translated and annotated by Rupert East. *London*, 1939 Chaps. IV and V, pp. 176-295.
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- \*\*425. EVANS-PRITCHARD, E. E. Witchcraft, Oracles and Magic among the Azande. *Oxford*, 1937. xxv+558 pp.
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- 427. LABOURET, H. La Sorcellerie au Soudan Occidental. *Africa*, 8, pp. 462-72. 1935.
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- 429. MELLAND, F. H. Ethical and Political Aspects of African Witchcraft. *Africa*, 8, pp. 495-503. 1935.
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- 431. RICHARDS, A. I. A Modern Movement of Witch-Finders. *Africa*, 8, pp. 448-61. 1935.
- 432. ROBERTS, C. C. Witchcraft and Colonial Legislation. *Africa*, 8, pp. 488-93. 1935.

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433. SANTANDREA, S. Evil and Witchcraft among the Ndogo Group of Tribes. *Africa*, 11, pp. 459-81. 1938.
434. SMITH, E. W. Inzuikizi (Witchcraft) *Africa*, 8, pp. 473-80. 1935.

### (5) *Basutoland*

435. BASUTOLAND. Basutoland Native Laws of Lerotholi as amended by the National Council of 1922. 1922. 12 pp.  
'An unofficial code of the customary law for the guidance of tribal courts, defining the rights and powers of chiefs and tribesmen, judicial procedure, seduction, principles of stock theft, &c.' (Schapera)

### (6) *Bechuanaland*

436. SCHAPERA, I. A Handbook of Tswana Law and Custom *London*, 1938. xiv+326 pp.  
A comprehensive account of the law and legal institutions of the Tswana tribe, dealing mainly with the traditional law, but showing the changes it has undergone as a result of European influence.
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